

) ORDER
) APPROVING
) TRANSFER OF
) ASSETS
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This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion of Worldcom Network Services, Inc. DBA WilTel Network Services (WilTel or the Applicant) that the hearing requirement to approve the transfer of assets from Communications Network Corporation AKA Conetco (Conetco) to WilTel be waived. In support of its Motion, WilTel states that it published a Notice of Filing of the Application for the transfer in area newspapers as required by the Commission. The deadline for filing Petitions to Intervene in the proceeding was November 1, 1996, and no comments or Petitions to Intervene were filed. According to the Applicant, the proceeding seeks the approval of the Commission nunc pro tunc of a transaction previously ordered by a Bankruptcy Court.

On July 1, 1996, Conetco's creditors, including WilTel, filed a Petition for Chapter 11 involuntary bankruptcy against Conetco with the United States Bankruptcy Court of the Southern District

of New York. On August 6, 1996, the Bankruptcy Court issued a Consent Order which ordered Conetco to immediately transfer certain assets to WilTel as described in the September 16, 1996 Application. According to WilTel, the purpose of the hearing in this matter is to approve the transfer of assets already accomplished as a result of the Bankruptcy Court Order, and since no Petitions to Intervene were filed in the proceeding, WilTel requests that the Commission waive the hearing requirement, and process the Application without a formal hearing. Further, the Applicant requests that the Commission approve the transfer of assets nunc pro tunc.

We have considered this matter, and hold that S. C. Code Ann. Section 58-9-310 (1976) requires "due hearing" for asset transfers. Although we do not agree specifically with the Motion as made by WilTel, we do hold that the due hearing hearing requirement may be satisfied by the Commission's consideration of this matter at its regularly scheduled meeting of January 7, 1997.

We note that the testimony of Brian K. Sulmonetti, the Director of Regulatory Affairs for WilTel, was attached to the Applicant's Motion. This testimony was in verified form, and substantiates allegations in the Motion.

It appears that on August 6, 1996, the Bankruptcy Court issued a Consent Order, wherein the Bankruptcy Court mandated that Conetco (1) immediately transfer its 1+ Customer Base free and clear of claims and interests to WilTel; (2) provide notice of such transfer to each of its 1+ customers as requested by WilTel;

(3) deliver to WilTel, upon request, all customers records, billing records, payment records, documents, invoices, contracts, lease rights, network contracts, customer contracts, and any other agreements related to the furnishing of 1+ long distance services by Conetco to its end-users, and all computer tapes, disks or other media containing, describing or compiling information related to any of the foregoing. Therefore, beginning August 6, 1996, WilTel began to acquire the above-described Conetco assets pursuant to the Bankruptcy Court's Consent Order. Sulmonetti noted that at the time of his testimony, that the transfer of assets was substantially complete. Sulmonetti noted that WilTel did not have an opportunity to seek this Commission's prior approval of the transfer of assets because of the need to comply with the Bankruptcy Court's Order by transferring assets immediately.

According to Sulmonetti, no effect will be seen on Conetco's former customers in South Carolina. He states that their former customers will receive the same high quality services from WilTel that they received from Conetco, at the same rates, and under the same terms and conditions. Thus, the transfer did not and will not detrimentally impact the consumers of South Carolina. WilTel also notes that it will amend its tariff as necessary to incorporate the services, rates, terms and conditions previously offered by Conetco. Sulmonetti finally stated in his verified testimony that approval nunc pro tunc of the transfer of assets from Conetco to WilTel is in the public interest, because WilTel's


acquisition of Conetco's customer base avoided any unnecessary interruption in the telecommunications service provided to Conetco's former customers in South Carolina.

Sulmonetti notes that WilTel is fully qualified to provide high quality telecommunications services to Conetco's former customers at competitive prices. Therefore, according to Sulmonetti, the transfer has been transparent, leaving the quality of service that customers expect unaltered. In addition, the transfer of assets allows WilTel to realize significant economies of scale, thereby making it possible for WilTel to introduce new products and services.

The Commission has examined this matter, and believes that the Application should be granted nunc pro tunc, as requested by WilTel. The verified testimony of Brian Sulmonetti shows that the transfer is in the public interest, and that WilTel had no chance to apply for approval to this Commission prior to the entering of the decree by Bankruptcy Court. The transfer is therefore approved as applied for. WilTel shall submit revised tariffs consistent with this Order within twenty (20) days of receipt of this Order.

This Order shall remain in full force and effect until
further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)